

LOUISIANA BOARD OF ETHICS

IN THE MATTER

DOCKET NO. 2019-327

OF

REP. NANCY LANDRY

DECLARATORY OPINION

On March 1, 2019, the Louisiana Board of Ethics (“Board”) received a “Request for Declaratory Opinion” from Attorney R. Gray Sexton, submitted on behalf of Representative Nancy Landry regarding the propriety of her election by the Louisiana House of Representatives to the position of Clerk of the House of Representatives following the completion of her term of office as a State Representative for District 31.

La. R.S. 42:1141.6 provides that upon application of a public servant, other person, or agency, the Board may declare rights, status, and other legal relations established by the provisions of the Code of Governmental Ethics (“Code”) or by any other law within its jurisdiction or under the opinions issued by the Board, either before or after there has been a breach thereof.¹ The purpose of a declaratory opinion is to settle and afford relief from uncertainty and insecurity with respect to rights, status, or other legal relations established by the provisions of the Code.² The decision of the Board on an application for declaratory opinion shall be rendered after a public hearing and only after the requesting party, all other interested parties, and the Board’s staff have been afforded a full and complete opportunity to present evidence, testimony, and argument.³

Pursuant to the provisions of La. R.S. 42:1141.6 and LAC 52:I.1002, *et seq.*, a public hearing on the “Request for Declaratory Opinion” was held by the Board on April 12, 2019.

¹ La. R.S. 42:1141.6A.

² La. R.S. 42:1141.6C.

³ La. R.S. 42:1141.6D.

Present at the hearing were Rep. Nancy Landry, along with her counsel of record, R. Gray Sexton and Alesia Ardoin, and the Board's designated Trial Attorneys, Kathleen Allen and Jennifer Land. During the hearing, both sides submitted the following exhibits as evidence to be considered by the Board:

- Exhibit 1: Prior Advisory Opinions of the Board
- Exhibit 2: Joint Stipulation of Facts
- Exhibit 3: Affidavit of Verification
- Exhibit 4: "Request for Declaratory Opinion"
- Exhibit L-1: Board Advisory Opinion No. 2007-687

Following the presentation of evidence and consideration of the arguments, the Board took the matter under advisement for deliberations pursuant to LAC 52:I.1017A. On May 17, 2019, the Board, by a unanimous vote, held that Rep. Nancy Landry is not prohibited by La. R.S. 42:1121A(1) from serving as the elected Clerk for the House of Representatives within two years of the end of her term as Representative.

The Board hereby makes the following findings of fact and law:

FACTS

Nancy Landry has continuously served as Louisiana State Representative for District 31 since first being elected in 2008, with her final term of office ending on January 13, 2020 at 10:00 a.m.⁴ Representative Landry seeks to be elected and serve in the position of the Clerk of the House of Representatives ("House") subsequent to the expiration of her term of office as a Representative.⁵

The procedure for the nomination and selection of a Clerk is established by Louisiana House of Representatives Rule 2.2. There is no qualification period or application process for the

⁴ Exhibit 2, Stipulation No. 1.

⁵ Exhibit 2, Stipulation No. 2.

position of Clerk of the House.⁶ The Clerk of the House shall be elected every four years at the organizational session of the legislature.⁷ The Clerk of the House is to be elected by the House at the organizational session of the legislature at 10:00 a.m. on January 13, 2020, as its sixth order of business after the taking of the oath or affirmation of office by the members of the House.⁸ The member of the House with the most years of service as a member of the House who served in the House in the preceding term shall preside, or in his absence or inability or due to his candidacy to be elected as an officer of the House, the next most senior member shall preside and call for nominations for the Clerk of the House.⁹ Members of the House may make nominations for the Clerk of the House with no limit on the nominations made.¹⁰ The presiding member of the House will close the nominations for the Clerk of House and all members shall vote if more than one nomination has been made.¹¹

ISSUE

Whether Rep. Landry would be prohibited by the Code from serving as Clerk of the House of Representatives following the termination of her service as a member of the House of Representatives on January 13, 2020?

LAW

La. R.S. 42:1121A(1) provides:

No former agency head or elected official shall, for a period of two years following the termination of his public service as the head of such agency or as an elected public official serving in such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency or render any service on a contractual basis to or for such agency.

⁶ Exhibit 2, Stipulation No. 3.

⁷ Exhibit 2, Stipulation No. 4.

⁸ Exhibit 2, Stipulation No. 5.

⁹ Exhibit 2, Stipulation No. 6.

¹⁰ Exhibit 2, Stipulation No. 7.

¹¹ Exhibit 2, Stipulation No. 8.

“Elected official” means any person holding an office in a governmental entity which is filled by the vote of the appropriate electorate.¹² “Agency” means the legislative branch of state government in the case of legislators.¹³ “Legislator” means any person holding office in the Senate or House of Representatives of the Louisiana Legislature which is filled by the vote of the appropriate electorate.¹⁴

ANALYSIS

As an elected member of the House of Representatives, it is clear that Rep. Landry is an “elected official” within the meaning of the Code. As a Legislator, her agency is the Legislative Branch of state government. Therefore, as a former elected official, Section 1121A(1) would apply to Rep. Landry following the termination of her service as a Legislator. The Board finds that the position of Clerk of the House is an elected position based on the rules of the House.¹⁵ Therefore, since the Clerk of the House is elected, Rep. Landry would not be contracting with her former agency. For these reasons, Section 1121A(1) would not prohibit Rep. Landry from serving in the position of Clerk of the House with the Louisiana Legislature within the two years following the end of her service as a Legislator.

CONCLUSION

Section 1121A(1) would not prohibit Rep. Landry from serving in the position of Clerk of the House with the Louisiana Legislature within the two years following the end of her service as a Legislator.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]


¹² La. R.S. 42:1102(9)

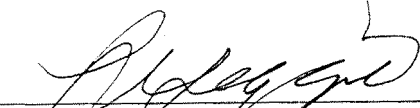
¹³ La. R.S. 42:1102(2)(a)(iv)

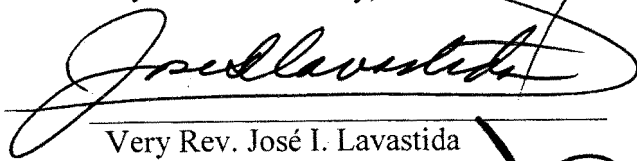
¹⁴ La. R.S. 42:1102(14)

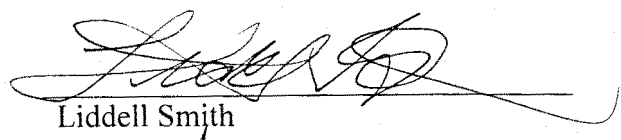
¹⁵ Exhibit 2, Stipulation No. 12

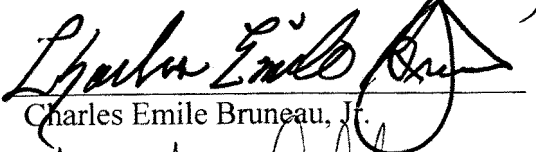
BY ORDER OF THE BOARD, this 17th day of May, 2019.

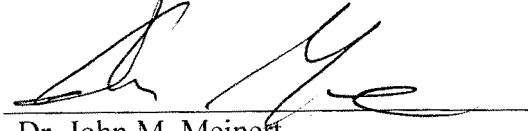

Robert V. McAnelly, Chairman

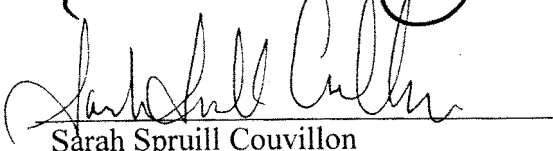

Dr. Louis Leggio, Vice Chairman

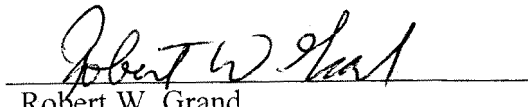

Very Rev. José I. Lavastida



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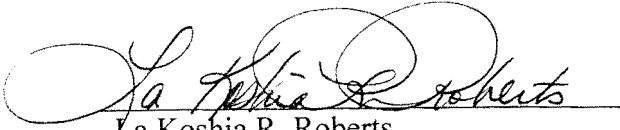

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